

ARTICLE XII

ENVIRONMENTAL AND SPECIAL PURPOSE REGULATIONS

12-1 WATERSHED PROTECTION OVERLAY DISTRICT REGULATIONS

The watershed protection overlay districts, as described in Section 9-1.7(C), are designed to protect designated public water supply watershed from activities which could degrade water quality. These separate watershed protection overlay districts have been established: WCA, Watershed Critical Area Overlay District and WPA, Watershed Protected Area Overlay District. Both of these watershed overlay districts are within a public water supply watershed that has been classified by the State of North Carolina as a WS-IV watershed.

12-1.1 General Requirements

- (A)** The regulations delineated in Section 12-1 are intended to comply with the requirements of NCGS 143-214.5. For property located within a WCA or WPA Overlay District, the provisions of Section 12-1 shall apply only to new development activities which require an erosion and sedimentation control plan in accordance with the rules established by the North Carolina Sedimentation Control Commission.
- (B)** No structure or land use shall be allowed within the watershed protection overlay districts which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

12-1.2 WCA Supplemental Standards

(A) Applicability

The provisions of Section 12-1.2 shall apply only to new development activities which require an erosion and sedimentation control plan in accordance with the rules established by the North Carolina Sedimentation Control Commission.

(B) Density

Single-family residential uses shall not exceed a maximum density of two dwelling units per acre, as defined on a project by project basis. No single-family residential lot shall be less than 20,000 square feet in area, excluding roadway right-of-way, unless located within an approved cluster development in accordance with Section 12-1.5.

However, where public sewer service is not available, a minimum of 40,000 square feet in lot area shall be required for each single-family residential lot. All other types of residential development shall comply with the built-upon area requirements of subsection (C).

(C) Built-Upon Area

All residential development, other than single-family development, and all nonresidential development shall be allowed a 24% built-upon area. For purposes of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed. Higher density development using engineered stormwater control devices may be permitted in accordance with Section 12-1.11.

(D) Permitted Uses

Agricultural uses (subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990) and silvicultural uses (subject to the provisions of the Forest Practices Guidelines Related to Water Quality, 15 NCAC 11.6101-.0209) are permitted with the WCA. Residential and nonresidential uses allowed in the underlying general zoning district or another applicable overlay district are permitted within the WCA except for the following:

- (1) sites for land application of residuals or petroleum contaminated soils;
- (2) new landfills;

12-1.3 WPA Supplemental Standards

(A) Applicability

The provisions of Section 12-1.3 shall apply only to new development activities which require an erosion and sedimentation control plan in accordance with the rules established by the North Carolina Sedimentation Control Commission.

(B) Density

Single-family residential uses shall not exceed a maximum density of two dwelling units per acre or three dwelling units per acre for projects without a curb and gutter street system, as defined on a project by project basis. No single-family residential lot shall be less than 20,000 square feet or 14,500 square feet for projects without a curb and gutter street system, unless located within an approved cluster development in accordance with Section 12-1.5.

However, where public sewer service is not available, a minimum of 40,000 square feet in lot area shall be required for each single-family residential lot. All other types of residential development shall comply with the built-upon area requirements of subsection (C).

(C) Built-Upon Area

All residential development, other than single-family development, and all nonresidential development shall be allowed at a maximum 24% built-upon area or 36% built-upon area for projects without a curb and gutter street system. For purposes of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed. Higher density development using engineered stormwater control devices may be permitted in accordance with Section 12-1.11.

(D) Permitted Uses

Agricultural uses (subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990) and silvicultural uses (subject to the provisions of the Forest Practices Guidelines Related to Water Quality, 15 NCAC 11.6101-.0209) are permitted with the WPA. Residential and nonresidential uses allowed in the underlying general zoning district or another applicable overlay district are permitted within the WPA.

12-1.4 Best Management Practices

(A) General

The construction of new streets and bridges and nonresidential development shall minimize built-upon area, divert stormwater away from surface water supply waters as much as possible, and employ best management practices to minimize water quality impacts. To the extent practicable, the construction of new Streets in the WCA Overlay District should be avoided. The NC Department of Transportation shall use best management practices as outlined in its document entitled, *Best Management Practices for the Protection of Surface Waters*.

(B) Agricultural Uses

Agricultural uses are subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101-624).

(C) Forestry Operations

Forestry operations, if allowed in the underlying general zoning district, are subject to the provisions of the Forest Practice Guidelines Related to Water Quality (15 ANCAC 11.0101-.0209).

12-1.5 Cluster Development

(A) Cluster Development

Cluster development is allowed in all watershed protection overlay districts provided that the following conditions are met:

- (1) Minimum lot sizes may be reduced for single-family cluster development projects in accordance with the provisions of Section 9-4.1(B); however, the total number of lots shall not exceed the maximum number of lots allowed for single-family detached developments in Sections 12-1.2(B) and 12-1.3(B). Density or built-upon area requirements for the project shall not exceed that allowed in Sections 12-1.2(C) and 12-1.3(C).
- (2) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- (3) The remainder of the tract not built upon shall remain in a vegetated or natural state. The title to the reserved open space area shall be conveyed to an incorporated homeowners or property owners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

12-1.6 Buffer Areas

- (A) A minimum thirty-foot vegetative buffer for new development activities is required along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. A minimum one hundred foot vegetative buffer is required for all new development activities that utilize the high density development option authorized by Section 12-1.11. Desirable artificial streambank or shoreline stabilization is permitted.
- (B) No new development is allowed in the buffer except for water-dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious areas, and public projects such as street crossings and greenways where no practicable alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices. Desirable artificial streambank or shoreline stabilization is permitted.
- (C) Whenever the buffer requirements of other portions of this Ordinance are in conflict with the provisions of this Section, the more stringent requirement shall apply.

12-1.7 Existing Development

- (A) Existing development, as defined in Section 2-4, is not subject to the provisions of the watershed overlay district requirements. Redevelopment of and expansion to existing development is allowed as provided for herein.

- (B) Redevelopment of existing development is allowed if the rebuilding activity does not result in a net increase in built-upon area or if the redevelopment activity includes equal or greater stormwater control than the previous development. However, existing single-family residential development may be redeveloped without any restrictions.
- (C) Expansions to uses and structures classified as existing development must meet the requirements of this Section provided, however, that the built-upon area of the existing development is not required to be included in the built-upon area calculations. However, existing single-family residential development may be expanded without any restrictions.

12-1.8 Exceptions

If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this Ordinance if it is developed for single-family residential purposes. Any lot or parcel created as part of a family subdivision after the effective date of these rules shall be exempt from the provisions of Section 12-1 if it is developed for one single-family detached residence and if it is exempt from the provisions of this Ordinance per Section 10-1.1.

12-1.9 Variances

- (A) Minor Variances. Minor variances, as defined in Section 2-4, to the provisions of Section 12-1 may be approved by the Board of Adjustment pursuant to the variance procedures outlined for the Board of Adjustment in Article VII, specifically Sections 7-2.1, Section 7-2.3, and Sections 7-4 through 7-12. The Zoning Administrator shall keep a record of all such minor variances and shall submit, for each calendar year, the record to the Water Quality Section, of the NC Division of Environmental Management on or before January 1st of the following year. The record shall include a description of each project receiving a variance and the reasons for granting the variance.
- (B) Major Variances. Major variances, as defined in Section 2-4, shall be reviewed by the Board of Adjustment pursuant to the procedures outlined in this Article and a recommendation prepared for submission to the NC Environmental Management Commission (EMC). The record of a major variance review shall include the following items:
 - (1) the variance application;
 - (2) the hearing notices;
 - (3) the evidence presented;
 - (4) motions, offers of proof, objections to evidence, and rulings on them;
 - (5) proposed findings and exceptions;
 - (6) the Board of Adjustment's recommendation, including all conditions proposed to be added to the permit.

Upon receiving the record of a major variance review from the Board of Adjustment, the EMC shall (i) review the variance request, (ii) prepare a final

decision on the request, and (iii) forward its decision to the Board of Adjustment. If the EMC approves the variance as proposed, the Board of Adjustment shall prepare a final decision granting the proposed variance. If the EMC approves the variance with conditions and stipulations, the Board of Adjustment shall prepare a final decision, including such conditions and stipulations, granting the proposed variance. If the EMC denies the variance request, the Board of Adjustment shall prepare a final decision denying the variance.

12-1.10 (Reserved)

12-1.11 High Density Development Option

- (A) Upon approval by the City Council, a high density option may be authorized provided that the requirements of this subsection are met.
 - (1) Within the WCA Overlay District, new development may exceed the density and built-upon area standards set forth in Sections 12-1.2 (B) and (C) provided that (a) engineered storm-water controls are used to control runoff from the first inch of rainfall and (b) that the built-upon area does not exceed 50%. Within the WPA Overlay District, new development may exceed the density and built-upon area standards set forth in Sections 12-1.3 (B) and (C) provided that (a) engineered storm-water controls are used to control runoff from the first inch of rainfall and (b) that the built-upon area does not exceed 70%.
 - (2) The engineered storm-water controls required in subsection (1) shall be designed in accordance with Section 12-1.12.
 - (3) Financial assurance for the purpose of maintenance, repairs, or reconstruction of storm-water control structures shall be provided pursuant to Section 12-1.13.
 - (4) Storm-water control structures shall be maintained and inspected in accordance with the provisions of Section 12-1.14.
 - (5) An occupancy permit shall not be issued for any building within the permitted development until the City Council has approved the storm-water control structure, as provided in Section 4-8.
 - (6) All site plans for developments proposing to utilize the high density option must be reviewed and approved by the City Council.

12-1.12 Storm-water Control Structures

- (A) Developments located within watershed overlay districts that have been approved for the high density development option authorized in Section 12-1.11 shall comply with the requirements of this Section.
- (B) All storm-water control structures shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system

required; these registered professionals are defined as professional engineers, landscape architects, to the extent that the General Statutes, Chapter 89A allow and land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in General Statutes 89(C)-3(7).

- (C) All storm-water controls shall use wet detention ponds as a primary treatment system unless alternative storm-water management measures, as outlined in subsection (D), are used. Wet detention ponds shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Environmental Management. Specific requirements for these systems shall be in accordance with the following design criteria:
 - (1) Wet detention ponds shall be designed to remove 85% of total suspended solids in the permanent pool and storage runoff from a one inch rainfall from the site above the permanent pool;
 - (2) The designed runoff storage volume shall be above the permanent pool;
 - (3) The discharge rate from these systems following the one inch rainfall design storm shall be such that the runoff does not draw down to the permanent pool level in less than two days and that the pond is drawn down to the permanent pool level within at least five days;
 - (4) The mean permanent pool depth shall be a minimum of seven feet;
 - (5) The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features; and
 - (6) Vegetative filters shall be constructed for the overflow and discharge of all storm-water wet detention ponds and shall be at least thirty feet in length. The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow-through the filter for a 10-year, 24-hour storm with a 10-year, 1-hour intensity with a slope of five percent or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics.
- (D) Alternative storm-water management systems, consisting of one treatment option or a combination of treatment options, may be use. The design criteria for approval shall be 85 percent average annual removal of Total Suspended Solids. Also, the discharge rate shall meet one of the following criteria:
 - (1) the discharge rate following the 1-inch design storm shall be such that the runoff draws down to the pre-storm design stage within five days, but not less than two days; or
 - (2) the post development peak discharge rate shall equal the predevelopment rate for the 1-year, 24-hour storm.

- (E) In addition to the vegetative filters required in subsection (C)(6) above, all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within thirty days after any land disturbance. Upon completion of the storm-water control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement described in Section 12-1.13(C).
- (F) A description of the area containing the storm-water control structure shall be prepared and filed, consistent with Section 12-1.14(I) and (J), as a separate deed with the County Register of Deeds along with any easements necessary for general access to the storm-water control structure. The deeded area shall include the storm-water control structure, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs and reconstruction.
- (G) Qualifying areas of the storm-water control structure may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area.

12-1.13 Financial Security for Storm-water Control Structures

- (A) All new storm-water control structures authorized in Section 12-1.12(A) shall be conditioned on the posting of adequate financial assurance for the purpose of maintenance, repairs or reconstruction necessary for adequate performance of the storm-water control structures.
- (B) Financial assurance shall be in the form of the following:
 - (1) Surety Performance Bond or Other Security. The permit applicant shall obtain either a performance bond from a surety bonding company authorized to do business in North Carolina, an irrevocable letter of credit or other instrument readily convertible into cash at face value payable to the City of Elizabeth City or placed in escrow with a financial institution designated as an official depository of Elizabeth City. The bond or other instrument shall be in an amount equal to 1.5 times the total cost of the storm-water control structure, as estimated by Elizabeth City and approved by the City Council. The total cost of the storm-water control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and, grading, excavation, fill, etc. The costs shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization.
 - (2) Cash or Equivalent Security Deposited After the Release of the Performance Bond. Consistent with Section 12-1.14(K)(1), the permit applicant shall deposit with Elizabeth City either cash or other instrument approved by the City Council that is readily convertible into cash at face value. The cash or security shall be in an amount equal to fifteen percent of the total cost of the storm-water control structure or the estimated cost of maintaining the storm-water control structure over

a ten-year period, whichever is greater. The estimated cost of maintaining the storm-water control structure shall be consistent with the approved operation and maintenance plan or manual provided by the developer under Section 12-1.14(A). The amount shall be computed by estimating the maintenance cost for twenty-five years and multiplying this amount by two fifths or 0.4.

- (C) The permit applicant shall enter into a binding operation and maintenance agreement between Elizabeth City and all interests in the development. Said agreement shall require the owning entity to maintain, repair and, if necessary, reconstruct the storm-water control structure in accordance with the operation and management plan or manual provided by the developer. The operation and maintenance agreement shall be filed with the County Register of Deeds by the Public Works Director.
- (D) Default under the performance bond or other security. Upon default of the permit applicant to complete and/or maintain the storm-water control structure as spelled out in the performance bond or other security, the City Council may obtain and use all or any portion of the funds necessary to complete the improvements based on an engineering estimate. The City Council shall return any funds not spent in completing the improvements to the owning entity.
- (E) Default under the cash security. Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the storm-water control structure in accordance with the operation and maintenance agreement, the City Council shall obtain and use all or any portion of the cash security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after exhausting all other reasonable remedies seeking the owning entity to comply with the terms and conditions of the operation and maintenance agreement. The City Council shall not return any of the deposited cash funds.

12-1.14 Maintenance and Inspection of Storm-water Control Structures

- (A) An operation and maintenance plan or manual shall be provided by the developer for each storm-water control structure authorized in Section 12-1.11, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken and, consistent with the operation and maintenance agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a storm-water control structure to design specifications if a failure occurs.
- (B) Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the control structure is diminished or threatened, or to the extent of interfering with any easement or access to the storm-water control structure.

- (C) Except for general landscaping and grounds management, the owning entity shall notify the Public Works Director prior to any repair or reconstruction of the storm-water control structure. All improvements shall be made consistent with the approved plans and specifications of the storm-water control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Public Works Director shall inspect the completed improvements and shall inform the owning entity of any required additions, changes or modifications and of the time period to complete said improvements. The Public Works Director may consult with an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A allow) designated by the City Council.
- (D) Amendments to the plans and specifications of the storm-water control structure and/or the operation and maintenance plan or manual shall be approved by the City Council. Proposed changes shall be prepared by a North Carolina registered professional engineer or landscape architect (to the extent that the General Statutes, Chapter 89A allow) and submitted to and reviewed by the Public Works Director prior to consideration by the City Council.
 - (1) If the City Council approves the proposed changes, the owning entity of the storm-water control structure shall file sealed copies of the revisions with the office of the Public Works Director.
 - (2) If the City Council disapproves the changes, the proposal may be revised and resubmitted to the City Council as a new proposal. If the proposal has not been revised and is essentially the same as that already reviewed, it shall be returned to the applicant.
- (E) If the City Council finds that the operation and maintenance plan or manual is inadequate for any reason, the City Council shall notify the owning entity of any required changes and shall prepare and file copies of the revised agreement with the County Register of Deeds, the office of the Public Works Director and the owning entity.
- (F) Processing and inspection fees shall be submitted in the form of a check or money order made payable to Elizabeth City. Applications shall be returned if not accompanied by the required fee.
- (G) A permit and inspection fee schedule, as approved by the City Council, shall be posted in the office of the Public Works Director.
- (H) Inspection fees shall be valid for 60 days. An inspection fee shall be required when improvements are made to the storm-water control structure consistent with subsection (C) above, except in the case when a similar fee has been paid within the last 60 days.
- (I) The storm-water control structure shall be inspected by an engineer or landscape architect designated by the City Council, after the owning entity notifies the City that all work has been completed. At this inspection, the owning entity shall provide:

- (1) The signed deed, related easements and survey plat for the stormwater control structure ready for filing with the County Register of Deeds;
 - (2) A certification sealed by an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A, allow) stating that the storm-water control structure is complete and consistent with the approved plans and specifications.
- (J) The City's consulting engineer or landscape architect shall present the materials submitted by the developer and the inspection report and recommendations to the City Council at its next regularly scheduled meeting.
 - (1) If the City Council approves the inspection report and accepts the certification, deed and easements, the City Council shall file the deed and easements with the County Register of Deeds, release up to seventy-five percent of the value of the performance bond or other security and issue an occupancy permit for the stormwater control structure.
 - (2) If deficiencies are found, the City Council shall direct that improvements and inspections be made and/or documents corrected and resubmitted to the City Council.
- (K) No sooner than one year after the filing date of the deed, easements and maintenance agreement, the developer may petition the City Council to release the remaining value of the performance bond or other security. Upon receipt of said petition, the City 's consulting engineer or landscape architect shall inspect the storm-water control structure to determine whether the controls are performing as designed and intended. The consulting engineer or landscape architect shall present the petition, inspection report and recommendations to the City Council.
 - (1) If the City Council approves the report and accepts the petition, the developer shall deposit with the City a cash amount equal to that described in Section 12-1.13(B)(2) after which, the City Council shall release the performance bond or other security.
 - (2) If the City Council does not accept the report and rejects the petition, the City Council shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release the performance bond or other security.
- (L) All storm-water control structures shall be inspected by the City at least on an annual basis to determine whether the controls are performing as designed and intended. Records of inspection shall be maintained on forms approved or supplied by the North Carolina Division of Environmental Management. Annual inspections shall begin within one year of filing date of the deed for the storm-water control structure.

- (M) In the event that the Public Works Director discovers the need for corrective action or improvements, the Public Works Director shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications of the storm-water control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Public Works Director shall inspect and approve the completed improvements. The Public Works Director may consult with an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A, allow) designated by the City Council.

12-2 FLOOD HAZARD DISTRICT OVERLAY REQUIREMENTS

The Flood Hazard Overlay District (FHO), as established in Section 9-1.7(A), is designed for the purpose of protecting people and property from the hazards of flooding in accordance with the authority provided in NCGS 153A-121.

12-2.1 Definitions

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this Section shall have the meaning indicated when used throughout Section 12-2.

(A) Accessory Structure

A structure which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay sheds, and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

(B) Addition (to an existing building)

An extension or increase in the floor area or height of a building or structure. Additions to existing buildings shall comply with the requirements for new construction, unless the addition, renovation or reconstruction to any building, that was constructed prior to the initial Flood Insurance Study for that area, and the addition, renovation or reconstruction does not equal 50% of the present market value of the structure. Where a fire wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.

(C) Area of Shallow Flooding

A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

(D) Area of Special Flood Hazard

The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. As used in this Ordinance, the term refers to that area designated as subject to flood from the one hundred year flood on the *Flood Insurance Rate Map* prepared by the Federal Emergency Management Agency and dated 8/05/85 (#3701850001-0007) a copy of which is on file in the administrator's office. This area shall comprise the Flood Hazard Overlay District established in Section 9-1.7(A).

(E) Base Flood

The flood having a one percent chance of being equaled or exceeded in any given year.

(F) Basement

That lowest level or story which has its floor subgrade on all sides.

(G) Breakaway Wall

A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. A wall with loading resistance of more than 20 pounds per square foot requires an architect's or professional engineer's certificate.

(H) Building

Any structure built for support, shelter, or enclosure for any occupancy or storage.

(I) Development

Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

(J) Elevated Building

A non-basement building (a) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, or X to have the top of the elevated floor, above the ground by means of pilings, columns (posts or piers), shear walls parallel to the flow of water and, (b) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In the case of Zones A1-A-30, AE, A, A99, AO, AH, B, C, and X, "elevated building" also includes a building elevated by means of fill or solid

foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

(K) Existing Manufactured Home Park or Manufactured Home Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets , and either final site grading or the pouring of concrete pads) is completed before the effective date of this Ordinance.

(L) Expansion to an Existing Manufactured Home Park or Subdivision

The preparation of the additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

(M) Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (3) the overflow of inland or tidal waters; and,
- (4) the unusual and rapid accumulation of runoff of surface waters from any source.

(N) Flood Hazard Boundary Map (FHBM)

An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

(O) Flood Insurance Rate Map (FIRM)

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and risk premium zones applicable to the community (Map Date: 8/25/85; Map Number: 3701850001-007).

(P) Flood Insurance Study

The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as Flood Boundary Floodway Map and the water surface elevation of the base flood.

(Q) Floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Floodways are located within areas of special flood hazard as defined herein.

(R) Floor

The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood-frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(S) Functionally Dependent Facility

A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

(T) Habitable Floor

Any floor usable for living purposes which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

(U) Highest Adjacent Grade

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

(V) Historic Structure

Any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a State inventory of historic places; (d) individually listed on a local inventory of historic place in communities with historic preservation programs that have been certified (1) by an approved state program as determined by the Secretary of Interior, or (2) directly by the Secretary of Interior in states without approved programs.

(W) Levee

A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(X) Levee System

A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(Y) Lowest Floor

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

(Z) Manufactured Home

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a recreational vehicle.

(AA) Manufactured Home Park or Subdivision

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(BB) Mean Sea Level

The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this Ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

(CC) National Geodetic Vertical Datum (NGVD)

As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(DD) New Construction

Structures for which the 'start of construction' commenced on or after the effective date of this Ordinance.

(EE) New Manufactured Home Park or Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after October 10, 1989.

(FF) Recreational Vehicle

A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

(GG) Remedy a Violation

To bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impact of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

(HH) Repetitive Loss

Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

(II) Start of Construction

[For other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348)]. Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the state of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or

other structural part of the building, whether or not that alteration affects the external dimensions of the building.

(JJ) Structure

A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(KK) Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damaged occurred.

(LL) Substantial Improvement

Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the 'start of construction' of the improvement. This term includes structures which have incurred 'repetitive loss' or 'substantial damage', regardless of the actual repair work performed.

(MM) Substantially Improved Existing Manufactured Home Park or Subdivision

Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

(NN) Variance

A grant of relief to a person from the requirements of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

(OO) Violation

The failure of a structure or other development to be fully compliant with the City 's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Section is presumed to be in violation until such time as that documentation is provided.

12-2.2 Artificial Obstructions Within Floodways Prohibited

- (A) Located within areas of special flood hazard are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and has erosion potential.
- (B) No artificial obstruction may be located within any floodway, except as provided in Section 12-2.3.
- (C) For purposes of this Section, an artificial obstruction is any obstruction, other than a natural obstruction, that is capable of reducing the flood-carrying capacity of a stream or may accumulate debris and thereby reduce the flood-carrying capacity of a stream. A natural obstruction includes any rock, tree, gravel, or analogous natural matter that is an obstruction and has been located within the floodway by a nonhuman cause.
- (D) The following standards shall apply to any permissible use as delineated in Section 12-2.3 or any other use allowed by variance (in accordance with Section 7-2.2):
 - (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.
 - (2) If subsection (D)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 12-2.4.
 - (3) No manufactured home shall be permitted nor relocated in a floodway.

12-2.3 Permissible Uses Within Floodways

- (A) Notwithstanding Section 9-3.1 of this Ordinance (Table of Permitted Uses), no permit to make use of land within a floodway may be issued unless the proposed use is listed as permissible both in the Table of Permissible Uses and in the following list and provided that the proposed use does not involve a structure or fill:
 - (1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife and related uses.
 - (2) Ground level streets, streets, loading areas, parking areas, rotary aircraft ports, and other similar ground level area uses.
 - (3) Lawns, gardens, play areas, and other similar uses.

- (4) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, hiking or horseback riding trails, open space and other similar private and public recreational uses.
- (B) The uses listed in subsection (A) are permissible only if and to the extent that they do not cause any increase in base flood levels.
- (C) No building may be constructed and no substantial improvement of any existing building may take place within any floodway.
- (D) Any accessory structure allowed in subsection (A) shall not be used for human habitation.

12-2.4 Construction Within Areas of Special Flood Hazard Restricted

- (A) No new residential building may be constructed and no substantial improvement of a residential building may take place within any area of special flood hazard except in accordance with subsection (D) or (E) of this Section.
- (B) No new nonresidential building, with the exception of public utility structures, may be constructed and no substantial improvements of a nonresidential building may take place within any area of special flood hazard except in accordance with subsection (D) or (E) of this Section.
- (C) The following general standards shall apply to any permissible use, any public utility structure and any use allowed by variance (in accordance with Section 7-2.2) in an area of special flood hazard:
 - (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
 - (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
 - (3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
 - (4) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;
 - (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - (6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
 - (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
 - (9) Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this Ordinance shall meet the requirements of 'new construction' as contained in this Ordinance; and
 - (10) Non-conforming buildings or uses may not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this Ordinance. Provided, however, nothing in this Ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Ordinance and located totally or partially within the Floodway Zone, provided that the bulk of the building or structure below base flood elevation in the Floodway Zone is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Ordinance.
- (D) In all areas of special flood hazard where base flood elevation data has been provided, the following specific standards shall apply to any permissible use and any use allowed by variance (in accordance with Section 7-2.2):
- (1) Residential Construction. New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided.
 - (2) Non-Residential Construction. New construction or substantial improvement of any commercial, industrial, or nonresidential structure shall have the lowest floor, including basement, elevated at or above the base flood elevation. Structures located in A-zones may be flood-proofed in lieu of elevation provided that all areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 12-2.7(A)(5).
 - (3) Manufactured Homes.
 - (a) Manufactured homes that are placed or substantially improved on sites (i) outside a manufactured home park or subdivision; (ii)

in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; or, (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred 'substantial damage' as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (b) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of subsection (a) above of this Ordinance must be elevated so that the lowest floor of the manufactured home is elevated at or above the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.
 - (c) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with the *Regulations for Mobile Homes and Modular Housing* adopted by the Commissioner of Insurance pursuant to NCGS 143.143.15. Additionally, when the elevation would be met by an elevation of the chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.
 - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Zoning Administrator and the local Emergency Management Coordinator.
- (4) Recreational Vehicles. A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. Recreation vehicles placed on sites shall either:
- (a) be on site for fewer than 180 consecutive days;
 - (b) be fully licensed and ready for highway use; or
 - (c) meet the requirements of Sections 12-2.4(C) and (D)(3) and Section 12-2.7.

- (5) **Elevated Buildings.** New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
- (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) The bottom of all openings shall be no higher than one foot above grade; and,
 - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - (b) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (c) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 - (d) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.
- (6) **Temporary Structures.** Prior to the issuance of a development permit, for a temporary structure, the following requirements must be met:
- (a) All applicants must submit to the Zoning Administrator a plan for the removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:
 - (i) the name, address and phone number of the individual responsible for the removal of the temporary structure;
 - (ii) the time frame prior to the event at which a structure will be removed;

- (iii) a copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed; and
 - (iv) designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.
 - (b) The above information shall be submitted in writing to the Zoning Administrator for review and written approval.
- (7) Accessory Structure. When accessory structures (sheds, detached garages, etc.) with a value of \$3,000 or less, are to be placed in the floodplain the following criteria shall be met:
 - (a) Accessory structures shall not be used for human habitation;
 - (b) Accessory structures shall be designed to have low flood damage potential;
 - (c) Accessory structures shall be firmly anchored in accordance with Section 12-2.4(C)(1); and
 - (d) Service facilities such as electrical and heating equipment shall be elevated in accordance with Section 12-2.4(C)(5).
- (E) Located within the areas of special flood hazard are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas to any permissible use or any use allowed by variance (in accordance with Section 7-2.2;
 - (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of the stream bank equal to one times the width of the stream at the top of bank or twenty feet each side from top of bank, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - (2) If subsection (E)(1) is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of Section 12-2.4 and shall be elevated or flood-proofed in accordance with elevations established in accordance with Section 12-2.7(A)(5). When base flood elevation data is not available from a federal, state, or other source, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade.

- (F) Whenever any portion of an area of special flood hazard outside of the floodway is filled in with fill dirt, slopes shall be adequately stabilized to withstand the erosive force of the base flood.

12-2.5 Special Provisions for Subdivisions

- (A) An applicant for subdivision plat approval shall be informed by the Zoning Administrator of the use and construction restrictions contained in Sections 12-2.2, 12-2.3, and 12-2.4 if any portion of the land to be subdivided lies within an area of special flood hazard.
- (B) Final plat approval for any subdivision containing land that lies within an area of special flood hazard may not be given unless the plat shows the boundary of the area of special flood hazard and floodway boundary and contains, in clearly discernible print, the following statement: 'Use of land within an area of special flood hazard is substantially restricted by Section 12-2 of the Elizabeth City Unified Development Ordinance'.
- (C) Subject to the following sentence, a request for final plat approval for any subdivision may not be granted if:
 - (1) The land to be subdivided lies within a zone where residential uses are permissible and it reasonably appears that the subdivision is designed to create residential building lots; and
 - (2) Any portion of one or more of the proposed lots lies within an area of special flood hazard; and
 - (3) It reasonably appears that one or more lots described in subsections (C)(1) and (C)(2) could not practicably be used as a residential building site because of the restrictions set forth in Sections 12-2.2, 12-2.3, and 12-2.4.

The foregoing provision shall not apply if a notice that the proposed lots are not intended for sale as residential building lots is recorded on the final plat, or if the developer otherwise demonstrates to the satisfaction of the authority approving the final plat that the proposed lots are not intended for sale as residential building lots.

- (D) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (E) All subdivision proposals shall have public utilities and facilities such as water, sewer, gas, and electrical systems located and constructed so as to minimize flood damage.
- (F) All subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (G) Base flood elevation data shall be provided for subdivision proposals which contain fifty lots or five acres, whichever is less.

12-2.6 Water Supply and Sanitary Sewer Systems in Areas of Special Flood Hazard

Whenever any portion of a proposed development is located within an area of special flood hazard or whenever replacement water supply and sewage disposal systems are proposed within an area of special flood hazard, the agency or agencies responsible for certifying to the City the adequacy of the water supply and sewage disposal systems for the development (as set forth in Section 10-7.4) shall be informed by the developer that a specified area within the development lies within an area of special flood hazard. Thereafter, approval of the proposed system by that agency shall constitute a certification that:

- (A) Such water supply system is designed to minimize or eliminate infiltration of flood waters into it.
- (B) Such sanitary sewer system is designed to eliminate infiltration of flood waters into it and discharges from it into flood waters.
- (C) Any on-site sewage disposal system is located to avoid impairment to it or contamination from it during flooding.

12-2.7 Permit Requirements, Certifications, and Duties and Responsibilities of the Zoning Administrator

- (A) Application for a zoning, special use, or conditional use permit shall be made to the Zoning Administrator on forms furnished by the Administrator prior to any development activities. The application permit may include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:
 - (1) Where base flood elevation data are provided in accordance with subsection (B)(2), the application for a permit within the Zone A on the Flood Insurance Rate Map shall show:
 - (a) the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and
 - (b) if the structure has been floodproofed in accordance with Section 12-2.4(D)(2), the elevation (in relation to mean sea level) to which the structure was floodproofed.
 - (2) Where the base flood elevation data are not provided, the application for a permit must show construction of the lowest floor at least 2 feet above the highest adjacent grade.
 - (3) Where any watercourse will be altered or relocated as a result of proposed development, the application for a permit shall include: a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-

carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation.

- (4) When a structure is flood-proofed, the applicant shall provide a certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure meets the flood-proofing criteria in Section 12-2.4(D)(2).
 - (5) A floor elevation or flood-proofing certification is required after the lowest floor is completed. Within twenty-one (21) calendar days of establishment of the lowest floor elevation, or flood-proofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Zoning Administrator a certification of the elevation of the lowest floor, or flood-proofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Zoning Administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.
- (B) The Zoning Administrator shall review all zoning, special use, or conditional use permits to assure that any development within an area of special flood hazard is reasonably safe from the hazards of flooding and shall:
- (1) Where base flood elevation data or floodway data are available:
 - (a) Obtain the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;
 - (b) Obtain, for all structures that have been flood-proofed (whether or not such structures contain a basement), the actual elevation (in relation to mean sea level) to which the structure was flood-proofed; and
 - (c) Maintain a record of all such information.
 - (2) Where base flood elevation data or floodway data have not been provided:

- (a) Obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, including data developed pursuant to Section 12-2.5(G), for enforcing the requirements set forth in Section 12-2;
 - (b) Obtain and record the actual elevation constituting the highest adjacent grade, to which all new or substantially improved structures are elevated or flood-proofed; and
 - (c) Maintain a record of all such information.
- (3) Notify, in riverine situations, adjacent communities, the NC Department of Crime Control and Public Safety, Division of Emergency Management prior to any alteration or relocation of a watercourse, and submit copies of such notification to the Federal Emergency Management Agency.
 - (4) Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
 - (5) Ensure that all necessary permits have been received from those agencies from which approval is required by federal or state law.
 - (6) When flood-proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 12-2.4(D)(2).
 - (7) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.

12-2.8 Location of Boundaries of Areas of Special Flood Hazard

As used in Section 12-2, the term 'areas of special flood hazard' refers in the first instance to certain areas whose boundaries are determined and can be located on the ground by reference to the specific fluvial characteristics set forth in the definitions of this term. This term also refers to overlay zoning districts whose boundaries are the boundaries of the areas of special flood hazard shown on the map referenced in Sections 12-2.1(N) and (O), which boundaries are intended to correspond to the actual, physical location of areas of special flood hazard. (These overlay districts thus differ from other zoning districts whose boundaries are established solely according to planning or policy, rather than physical criteria.) Therefore, the Zoning Administrator is authorized to make necessary interpretations as to the exact location of the boundaries of areas of special flood hazards if there appears to be a conflict between a mapped boundary and actual field conditions. Such interpretations, like other decisions of the Zoning Administrator, may be appealed to the Board of Adjustment in accordance with the applicable provisions of this Ordinance.

12-2.9 Amendments to the Official Flood Hazard Zoning and Flood Hazard Boundary Map; Variance Procedures

(A) Amendments to the Official Flood Hazard Zoning and Flood Hazard Boundary Map:

- (1) All requests for revisions of areas of special flood hazard boundaries and base flood elevations shall be reviewed and approved by the Federal Emergency Management Agency.
- (2) The existing location of any area of special flood hazard as hereinabove defined may be amended in cases where:
 - (a) A flood control project of the federal, state, City or city government has substantially altered the flood hazard;
 - (b) Flood data indicates that the boundaries of either of the areas as shown on the official flood boundary and floodway map are no longer correct; or
 - (c) A private individual, corporation, firm or city agency has submitted plans for a channel improvement or relocation requiring an amendment to the official flood hazard boundary map.

(B) Variance Procedures

Requests for variances from the Flood Hazard Overlay District Requirements shall be reviewed by the Board of Adjustment in accordance with the procedures outlined in Section 7-2.2.

12-2.10 Regulations Do Not Guarantee Flood Protection

The degree of flood protection required by this Ordinance is considered reasonable for regulating purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes.

12-2.11 Setbacks from Streams Outside Designated Areas of Special Flood Hazard

In any area that is located outside a designated area of special flood hazard but where a stream is located, no building or fill may be located within a distance of the stream bank equal to five times the width of the stream at the top of the bank or twenty feet on each side, whichever is greater.

12-3 STORMWATER MANAGEMENT

The general standards contained in this Section shall apply throughout the planning jurisdiction. However, developments located within watershed protection overlay districts shall comply with the applicable additional requirements of Section 12-1.

12-3.1 Natural Drainage System Utilized to Extent Feasible

- (A) To the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing man-made drainage ways shall remain undisturbed.
- (B) To the extent practicable, lot boundaries shall be made to coincide with natural and pre-existing man-made drainage ways within subdivisions to avoid the creation of lots that can be built upon only by altering such drainage ways.

12-3.2 Developments Must Drain Properly

- (A) All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:
 - (1) The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or storm water runoff control plan; or
 - (2) The retention is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless such retention presents a danger to health or safety.
- (B) No surface water may be channeled or directed into a sanitary sewer.
- (C) Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.
- (D) All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments. More specifically:
 - (1) No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from higher adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties; and
 - (2) No development may be constructed or maintained so that surface waters from such development are unreasonably collected and channelled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

12-4 SOIL EROSION AND SEDIMENTATION CONTROL

- (A) No zoning, special use, or conditional use permit may be issued and preliminary plat approval for subdivisions may not be given with respect to

any development that would cause land disturbing activity requiring prior approval of an erosion and sedimentation control plan by the NC Sedimentation Control Commission under NCGS 113A-57(4) unless the Commission has certified to the City , either that:

- (1) An erosion control plan has been submitted to and approved by the Commission; or
 - (2) The Commission has examined the preliminary plans for the development and it reasonably appears that an erosion control plan can be approved upon submission by the developer of more detailed construction or design drawings. However, in this case, construction of the development may not begin (and no building permits may be issued) until the Commission approves the erosion control plan.
- (B) For purposes of this Section, 'land disturbing activity' means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and street construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation except activities that are exempt under NCGS 113A-52(6)). Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin.

12-5 COORDINATION WITH THE US ARMY CORPS OF ENGINEERS REGARDING WETLANDS

If a developer, corporation, private landowner or other person proposes to perform construction/filling activities in or near a lake, stream, creek, tributary or any unnamed body of water and its adjacent wetlands, Federal permit authorization may be required from the US Army Corps of Engineers prior to commencement of earth-disturbing activities. The US Army Corps of Engineers shall be notified by the developer or person proposing such earth-disturbing activities for possible issuance of Section 404 or other permits.

12-6 AIRPORT OVERLAY DISTRICT REQUIREMENTS

- (A) The Airport Overlay (AO) District, as established in Section 9-1.7 (B), is not intended to be utilized as a district classification, but as a designation which identifies areas subject to regulations which are supplementary to the regulations of the district to which such designation is attached, appended or overlaid. Regulations which apply to areas designated on the zoning map as being within such appended or overlaid designation must be determined by joint reference to the regulations of both the basic district classification and the overlay classification.
- (B) It is the intent of this Section to restrain influences which are adverse to the airport property and safe conduct of aircraft in the vicinity of Elizabeth City-Pasquotank County Regional Airport, to prevent creation of conditions hazardous to aircraft operation, to prevent conflict with land development which may result in loss of life and property, and to encourage development

which is compatible with airport use characteristics within the intent and purpose of zoning. To this end, the AO designation, when overlaid to a basic district classification, is intended to coordinate the purpose and intent of this Section with other regulations duly established by the City of Elizabeth City whose primary intent is to further the purposes set out above.

(C) The following definitions shall apply to this Section:

- (1) Airport. the Elizabeth City-Pasquotank County Regional Airport.
- (2) Airport Elevation. The highest point of the airport's useable landing area measured in feet above mean sea level (12.0').
- (3) Airport Environs. That area which has been identified as being significantly impacted by airport noise and accident potential.
- (4) Approach Surface. A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in subsection (4) below.
- (5) Approach Zones. The inner edge approach zone coincides with the width of the primary surface and begins 200 feet from the runway end and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (6) APZ-1. The Accident Potential Zone-1 (APZ-1) is the second most hazardous aircraft operations area in terms of accident potential. The APZ-1 extends from the Clear Zone (CZ) and is normally 3,000 feet wide and 5,000 feet long. The degree of hazard is less than that for the Clear Zone, but is significant enough to seriously affect residential uses and populated areas.
- (7) APZ-2. The Accident Potential Zone-2 (APZ-2) is the area of least definable aircraft operational hazards and is normally located beyond the APZ-1 and along the primary approach flight path. The APZ-2 is normally 3,000 feet wide and 7,000 feet long.
- (8) Clear Zone. The area located immediately beyond the end of the runways, in the form of a trapezoidal 'approach fan', and is the most critical area in terms of aircraft operations and accident potential. The dimensions of this area are usually based on Federal Aviation Administration (FAA) guidelines and the area should be kept clear of any and all obstructions to flight.
- (9) Conical Surface. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.

- (10) Conical Zone. The conical zone is established on the area that commences at the periphery of the horizontal zone and extends outward therefrom for a distance of 4,000 feet and upward at a slope of 20:1.
- (11) Day-Night Average Sound Level (Ldn). A basic measure of quantifying noise exposure, namely: The 'A-weighted sound level' averaged over 24-hour time periods, with a 10 decibel penalty applied to night time (10:00 p.m. to 7:00 a.m.) sound levels.
- (12) dBA. The unit of corrected noise level measured in accordance with the 'A-weighting scale' which replicates the response characteristics of the ear.
- (13) Decibel (abbreviated dB). A unit of measuring the relative loudness of sound or sound pressure equal approximately to the smallest degree of difference of loudness or sound of which includes about 130 decibels on a scale beginning with 1 for the faintest audible sound.
- (14) Hazard to Navigation. An obstruction determined to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.
- (15) Height. For the purpose of determining the height limits in the airport height restrictive area, the datum shall be mean sea level elevation unless otherwise specified.
- (16) Horizontal Surface. A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincided with the perimeter of the horizontal zone.
- (17) Horizontal Zone. The horizontal zone is established by swinging arcs of 5,000 feet radii from the center of the end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- (18) Larger than Utility Runway. A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.
- (19) Nonconforming Use. Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.
- (20) Nonprecision Instrument Runway. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

- (21) Obstruction. Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in subsection (D).
 - (22) Person. An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
 - (23) Precision Instrument Runway. A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
 - (24) Primary Surface. A surface longitudinally centered on a runway. The primary surface extends 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet.
 - (25) Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.
 - (26) Transitional Surfaces. These surfaces extend outward at right angles (ninety degree angles) to the runway centerline and extend at a slope of 7 feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.
 - (27) Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.
 - (28) Tree. Any object of natural growth.
 - (29) Utility Runway. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
 - (30) Visual Runway. A runway intended solely for the operation of aircraft using visual approach procedures.
- (D) Except as otherwise provided in this Section, no structure shall be erected, altered or maintained, and no trees shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limitations herein established for each zone in questions as follows:
- (1) Approach Zone (AO-A). Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. The inner dimension is 500 feet and its outer dimension is 2,000 feet.

- (2) Transitional Zones (AO-T). Slopes 7 feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation (or 162 feet above mean sea level). In addition to the foregoing, there are established height limits sloping 7 feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the horizontal surface.
 - (3) Horizontal Zone (AO-H). Established at 150 feet above the airport elevation or at a height of 162 feet above mean sea level.
 - (4) Conical Zone (AO-C). Slopes twenty feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to an elevation of 350 feet above mean sea level.
- (E) Notwithstanding any other provisions of this Section, no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.
- (F) The regulations prescribed by this section shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Section, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Section, and is diligently prosecuted.
- (1) Notwithstanding the preceding provision of this subsection, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Elizabeth City-Pasquotank County Regional Airport Authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Elizabeth City-Pasquotank County Regional Airport Authority.
- (G) The Zoning Administrator shall not issue a zoning permit within an AO-A, AO-T, AO-H, or AO-C zone until he has been determined that the proposal upon which he is requested to act is in compliance with the terms of these regulations.
- (1) Except as specifically provided in (i), (ii), and (iii) hereunder, no material change shall be made in the use of land, no structure shall be

erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this section shall be granted unless a variance has been approved in accordance with subsection (G)(4).

- (i) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
- (ii) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
- (iii) In the areas lying within the limits of the transition zones, no permit shall be required for any tree or structure less than 75 feet above the ground, except when such tree or structure because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions, shall be construed as permitting or intending to permit any construction, alteration of any structure or growth of any tree in excess of any of the height limits established by this Section except as set forth in subsection 12.6 (D).

- (2) No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this Section, or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
- (3) Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than sixty percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the regulations of this Ordinance.

- (4) Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in compliance with the regulations prescribed in this Section may apply to the Board of Adjustment for a variance in accordance with the provisions of Section 7-2.4.
- (H) The permitted land use of any property within the Airport Environs Impact Areas shall be in accordance with the requirements of Appendix 5. The boundaries of the Airport Environs Impact Areas are delineated on the map entitled, *Elizabeth City, North Carolina, Airport Area Land Use Plan* which was prepared by Ken Weeden and Associates and which is dated September 1989.

12-7 HIGHWAY CORRIDOR OVERLAY DISTRICT REQUIREMENTS

The Highway Corridor Overlay District, as described in Section 9-1.7, is established to provide specific appearance and operational standards for major highway corridors in Elizabeth City while accommodating development along the corridors. All uses in the Highway Corridor Overlay District (HCO) shall require site plan approval from the TRC and Planning Commission. All other requirements of the underlying zoning districts shall also apply, with the more stringent regulations prevailing when standards conflict.

12-7.1 Procedures

- (A) The applicant shall submit a site plan of the parcel and the proposed use to the Zoning Administrator. The Planning Director and TRC shall review the site plan and make recommendations to the Planning Commission. Approval of the site plan and the proposed uses by the Planning Commission authorizes the issuance of permits except for those uses that require additional approval by the Board of Adjustment or City Council.
- (B) Permits are issued at each phase of development and only in accordance with the approved site plan.
- (C) If a site plan was approved and a use permit was issued for the development of a lot or lots, no subsequent change or expansion which was not shown on the site plan shall be allowed unless also approved by the Planning Commission.

12-7.2 General Standards

- (A) A site development plan shall provide for the following:
 - (1) Convenient vehicular servicing of the buildings in the parking areas, and no undue interference with through traffic in gaining ingress to and egress from the proposed site;
 - (2) A vegetative buffer not less than 20 feet wide where the CO district development abuts a residential zoning district;.

- (3) A building group that is architecturally unified. Accessory buildings shall conform in appearance to the exterior design standards of the principal structure;
 - (4) Vehicular loading spaces in conformance with the requirements of Section 11-2.7;
 - (5) Convenient and safely located pedestrian crosswalks;
 - (6) Signs in accordance with the requirements of Section 11-1; and
 - (7) A maximum building height of 50 feet.
- (B) A traffic impact assessment, prepared by a registered professional engineer, indicating the estimated effect of the proposed development on adjacent existing street traffic, including quantitative estimates of the volume and distribution pattern of site-generated traffic for the hours of maximum impact on the local and regional street network, estimate of background traffic and projections of future background traffic, existing and projected levels of service for background traffic, estimated levels of service with the addition of future site-generated traffic, and recommendations for transportation system improvements to mitigate the impacts of the site-generated traffic.
 - (C) A preliminary site plan indicating the proposed site grading, landscaping, and storm drainage prepared by a licensed professional engineer or surveyor.
 - (D) A brief listing of proposed deed restrictions.

12-7.3 Usage of Required Setbacks

- (A) Sediment impoundments, boundary fences, gates and security stations may be located in any required yard.
- (B) Accessory buildings, other than as specified in subsection (A), shall not be located in any required street, side, or rear yard setback.
- (C) Parking and loading is permitted in any required building setback yard, however, all parking and loading areas shall be a minimum of 20 feet from any lot line and 50 feet from any public street right-of-way. Loading areas shall be oriented such that they are not visible from any public Street right-of-way.

12-7.4 Landscaping of Undeveloped Areas

- (A) Those portions of the street, rear, or side yards that are not devoted to the uses, buildings, parking lots, and structures that are permitted within this section shall be landscaped in accordance with the following requirements:
 - (1) All site plan drawings shall include a landscaping plan which shows the area to be landscaped along with the types of trees, shrubs, or plants.

- (2) When an area is required to be landscaped through vegetation, the requirements shall be met by the installation and maintenance of a combination of trees, shrubs, grasses and other ground cover. For vegetative property lines adjacent to corridor rights-of-way, a minimum 50-foot wide buffer is required along the entire adjoining property line.
- (3) No less than one tree shall be planted for each 2,000 square feet of landscaped area.
- (4) When planted, all canopy trees shall be at least 10 percent of their mature height and all understory trees shall be at least 20 percent of their mature height. A 'canopy tree' is a variety expected to reach a height in excess of 30 feet at maturity (e.g., oaks, pines, sycamores, etc. 'Understory tree' is a variety not expected to reach a height of 30 feet at maturity (e.g., dogwoods, crepe myrtles, certain types of maples, etc.
- (5) All tree and plant material selections shall be native or adaptable to the Elizabeth City region and its climate.
- (6) When the required landscaping improvements have not been completed prior to the issuance of a building Certificate of Occupancy, the developer shall provide a guarantee in accordance with the requirements of Section 11-3.8.

12-7.5 Outdoor Lighting

All outdoor lighting shall be shielded in such a manner that no direct glare from the light source can be seen from a major highway or from above. Site plans shall identify measures to regulate the spillover effect of light and glare on operators of motor vehicles, pedestrians, and surrounding land uses in the proximity of the light source.

12-7.6 Landscaping at Driveway and Street Intersections

To ensure that landscape materials do not constitute a driving hazard, a sight triangle will be observed at all intersections of driveways with streets. Within this sight triangle, landscape materials, except for required grass or ground cover, shall not be permitted. The sight triangle shall be formed by measuring at least 25 feet along the driveway curb and 25 feet along the highway right-of-way and connecting these points. Street intersection sight triangles shall meet the above requirement or that of the North Carolina Department of Transportation, whichever is more stringent.

12-7.7 Lot Coverage

The maximum lot coverage by total impervious surfaces such a roof tops, paving, walkways, etc. shall be 70 percent of the lot area except when stormwater is retained or detained on the site. Any additional runoff resulting from lot coverage in excess of 70 percent must be compensated for by such on-site detention or retention measures.

12-7.8 Streets and Access

- (A) Each building lot shall be limited to two points of ingress to and two points of egress from the adjacent access or major highway. Points of ingress and egress may be combined into one two-way driveway with appropriate separation of lanes. Additional points of ingress to and egress from an access street or highway shall not be allowed unless determined necessary by the City to improve traffic movement or safety, increase sight distances, or similar reasons.
- (B) Ingress to and egress from a corner lot or lots may be limited to the feeder street and shall be prohibited within 175 feet of the intersection with the interchange along the highway for residential uses and 225 feet for industrial and commercial uses.
- (C) All points of ingress and egress to access streets or major highways shall be designed according to the applicable standards of the City and the North Carolina Department of Transportation, whichever is more stringent.
- (D) If the owners of two or more lots jointly provide a direct point of both ingress and egress to serve their lots, adequate provisions shall be made by dedication, covenants, restrictions, or other legal instruments for ensuring that such point of ingress and egress on such streets are provided and maintained consistent with the regulations and intent of this Section.
- (E) Driveway widths and design shall conform to the applicable standards of the City and the North Carolina Department of Transportation, whichever is more stringent.
- (F) All streets, including frontage streets, rear access streets, and culs-de-sac shall be approved by the City or the North Carolina Department of Transportation, if applicable, and dedicated to the public.

12-7.9 Spacing Standards

The spacing standards of this subsection are intended to improve the compatibility of streetside uses with adjacent highways by ensuring the separation and proper location of ingress and egress.

- (A) The spacing requirements for lots with direct points of ingress and egress to highways shall be as follows:
 - (1) for lots with general uses, a minimum of 150 feet.
 - (2) for lots with conditional or special uses, a minimum of 200 feet.
- (B) The spacing requirements of this subsection shall be measured from the center line of the nearest points of ingress and egress. The spacing of direct points of ingress and egress for different lots shall be spaced as evenly as possible.

- (C) Where topography, line of sight distances of motorists, vegetation, geological formations, or other site characteristics are such that strict adherence to spacing dimensions would impose unnecessary hardship upon the permit applicant or undue hazard to the motoring public, the Planning Commission may authorize a decrease in the spacing dimensions of up to 20 percent, provided that a record of why such decrease is necessary is made a part of the permit.

12-8 HISTORIC DISTRICT OVERLAY REQUIREMENTS

12-8.1 General

The Historic District Overlay District, as described in Section 9-1.7 (E), is established to protect and conserve the heritage and character of the Elizabeth City community by providing for the preservation of designated areas with the planning jurisdiction. The Downtown and West Main Street Historic Overlay Districts have been established to overlap and overlay existing zoning districts, the extent and boundaries of which are as indicated on the Official Zoning Map for the City of Elizabeth City. The boundaries of the Downtown and West Main Street Historic Overlay Districts are shown on the Official Zoning Map.

12-8.2 Standards

- (A) The use and development of any land or structure within the Historic Overlay District shall comply with the use regulations and intensity regulations applicable to the underlying zoning district except that (i) no manufactured home shall be located within an Historic Overlay District, (ii) no building or part of a building shall extend nearer to or be required to be set back further from the front street right-of-way than the average distance of the setbacks of the nearest principal structures in the vicinity of such building and fronting on the same side of the street, (iii) no principal or accessory building shall be required to be set back further from a side or rear property line than the average distance of the setbacks of the nearest principal or accessory structures in the vicinity of such building, and (iv) no multi-family dwellings including duplexes and triplexes shall be located in residentially-zoned historic districts.
- (B) No exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), or any above-ground utility structure, or any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished within the Historic District until after an application for a Certificate of Appropriateness as to exterior architectural features has been submitted to and approved by the Historic Preservation Commission.

For purposes of this article, "exterior architectural features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the

case of outdoor advertising signs, 'exterior architectural features' shall be construed to mean the style, material, size, and location of all such signs. Such a Certificate of Appropriateness shall be issued by the Commission prior to the issuance of a building permit or any other permit granted for purposes of constructing, altering, or demolishing buildings or structures. A Certificate of Appropriateness shall be required whether or not a building permit is required. Any building permit or other permit not issued in conformity with this section shall be invalid.

The City and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures, and buildings on property, easements, or streets owned or franchised by the City of Elizabeth City or public utility companies.

- (C) Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the Historic District that does not involve a change in design, material, or outer appearance thereof, or to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of any such feature that the Building Inspector or similar official shall certify is required by the public safety because of unsafe or dangerous condition. Nothing in this article shall be construed to prevent property owners from making any use of their property that is not prohibited by other law. Nothing in this article shall be construed to prevent the maintenance, or in the event of an emergency the immediate restoration, of any existing above-ground utility structure without approval by the Historic Preservation Commission.

On the basis of preliminary sketches or drawings and other supporting data, the administrator may exempt from requirements for a Certificate of Appropriateness projects involving the ordinary maintenance or repair of any exterior architectural feature that does not involve a change in design, material, or outer appearance thereof. The administrator shall notify the Commission of all such exemptions.

- (D) The standards and procedures delineated in the historic district pamphlet entitled *The Elizabeth City Historic Preservation Commission and Certificates of Appropriateness* shall be followed.

12-8.3 Procedures for Approval of Certificates of Appropriateness

(A) Application Submittal Requirements

Applications for Certificates of Appropriateness shall be filed with the administrator.

The administrator shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to determine the nature of the application.

The Commission may specify criteria for situations in which the administrator may waive any of the application material requirements.

No application shall be accepted by the administrator unless it complies with such requirements. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

(B) Notification of Affected Property Owners

Prior to approval or denial of an application for a Certificate of Appropriateness, the Commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard.

(C) Public Hearing

In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

(D) Commission Action

Within ninety (90) days of the acceptance of an application, or within such further time consented to by written notice from the applicant, the Commission shall take action on the application. Such action shall be based upon the review criteria established in Section (C) of this article, and shall be one of the following:

- (1) Approval.
- (2) Approval subject to conditions.
- (3) Denial.

Failure of the Commission to take final action on an application within the prescribed time limit, or extensions thereof, shall result in approval of the application as submitted.

The Commission may impose such reasonable conditions on its approval of an application as will ensure that the spirit and intent of this article are achieved.

An application for a Certificate of Appropriateness authorizing the demolition of a building or structure within the Historic District may not be denied. However, the effective date of such a certificate may be delayed for a period of up three hundred sixty-five (365) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period, the Commission may negotiate with the owner and with any other parties in an effort to find a means of

preserving the building. If the Commission finds that the building has no particular significance or value toward maintaining the character of the Historic District, it shall waive all or part of such period and authorize earlier demolition or removal.

In every case, the record of the Commission's action shall include the reasons for its action.

(E) Actions Subsequent to Decision

The administrator shall notify the applicant of the Commission's decision in writing, and shall file a copy of it with the Planning Department. If the applicant is denied, the notice shall include the reasons for such action.

(F) Appeal of Decision

A decision by the Commission on an application for a Certificate of Appropriateness may be appealed to the Board of Adjustment in accordance with the provisions of Article V.

(G) Submission of New Application

If the Commission denies an application for a Certificate of Appropriateness, a new application affecting the same property may be submitted only if substantive change is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving.

(H) Modifications to applications

An approved or pending application for a Certificate of Appropriateness may be modified by a written request from the applicant to the Commission. Such a request shall include a description of the proposed change and shall be accompanied by elevations, plans or sketches, where necessary. If the Commission finds that the modification constitutes a substantial change which might affect surrounding property owners, it shall request the applicant to notify affected property owners following the procedures set out in subsection (D)(2) before taking action on the modification. The Commission shall thereupon treat the request in the same manner as any other application as outlined in subsection (D).

12-8.4 Review Criteria

In considering an application for a Certificate of Appropriateness, the Commission shall take into account the historical and/or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure that are visible from a public right-of-way. The Commission shall not consider interior arrangement or use.

The Commission, using the criteria below, shall make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the Historic District.

The following criteria shall be considered, when relevant, by the Commission in review applications for a Certificate of Appropriateness:

- (1) The height of the building in relation to the average height of the nearest adjacent and opposite buildings.
- (2) The setback and placement on lot of the building in relation to the average setback and placement of the nearest adjacent and opposite buildings.
- (3) Exterior construction materials, including texture and pattern.
- (4) Architectural detailing, such as lintels, cornices, brick bond, and foundation materials.
- (5) Roof shapes, forms, and materials.
- (6) Proportion, shape, positioning and location, pattern, and size of any elements of fenestration.
- (7) General form and proportions of buildings and structures.
- (8) Appurtenant fixtures and other features such as lighting.
- (9) Structural conditions and soundness.
- (10) Architectural scale.

12-8.5 Prevention of Demolition by Neglect of Historic Landmarks and Structures within Local and National Historic Districts

The purpose of this section is to permit the City of Elizabeth City, through its Historic Preservation Commission and its Planning Department, to protect its historic architectural resources by intervening when a significant resource is undergoing demolition by neglect.

Demolition by neglect is defined as a situation in which a property owner allows the condition of property located in the Historic Districts to suffer such deterioration, potentially beyond the point of repair, as to threaten the structural integrity of the structure or its relevant architectural detail such that the structure and its character may potentially be lost to current and future generations.

A significant resource, as the term is used in this ordinance, is defined as any property, structure or architectural resource which was designated as “contributing” in the Elizabeth City Historic District’s nomination to the National Register of Historic Places or is located within the Historic District Overlay as defined in Section 9-1.7(E), or which has gained significance in the intervening period. Significance shall be determined after a review and evaluation conducted by the Planning Department Director (or his designee), Historic Preservation Commission, and the State Historic Preservation Officer.

(A) Application Submittal Requirements

The exterior features of any building or structure (including walls, fences, light fixtures, steps, pavement, paths, or any other appurtenant feature), or any type of outdoor advertising sign either designated as an Historic Landmark or found to have significance located within the Historic Overlay District shall be preserved by the owner or such other person who may have legal possession, custody, and control thereof against decay and deterioration and kept free from structural defects. The owner, or other person having such legal possession, custody, and control, shall upon written request by the City repair such exterior features if they are found to be deteriorating, or if their condition is contributing to deterioration, including but not limited to the list of defects found in Chapter 3 Section 303 of the Minimum Housing Code.

(B) Petition and Action

The Historic Preservation Commission or Planning Department staff may file a petition listing specific defects with the Planning Director requesting that he act under the following procedures to require the correction of deterioration or making of repairs to any historic landmark, significant structure or building located within the Historic Overlay Districts so that such structure shall be preserved and protected in accordance with the purposes of §§3-7, 9-1.7 and 9-2 of the Unified Development Ordinance.

- a) Whenever a petition is filed with the Planning Director charging that a structure is undergoing demolition by neglect, the Director (or his designee) shall conduct a preliminary investigation and prepare a staff report. Planning Department staff may consult, at their discretion, with professionals including, but not limited to: the Inspections Department Director (or his designee), architects, landscape architects, engineers, building inspectors and historic preservationists. If the preliminary investigation discloses a basis for such charges, within seven (7) days the Planning Director (or his designee) shall issue and cause to be served upon the owner and/or such other person who may have legal possession, custody, and control thereof, as the same may be determined by reasonable diligence, a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Planning Director not more than thirty (30) calendar days after the serving of such complaint; that the owner and/or parties in interest shall be given a right to answer to give testimony at the place and time fixed in the complaint; that the commission shall also be given notice of the hearing; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Director. The purpose of the hearing is to receive evidence concerning the charge of deterioration and to ascertain whether the owner and/or other parties in interest wishes to petition the Historic Preservation Commission for a claim of undue economic hardship.
- b) If after such notice and hearing, the Director determines that the structure is undergoing demolition by neglect because it is deteriorating,

or if its condition is contributing to deterioration, according to the standards of 12-8.5(A), the Director shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owner and/or other parties in interest therein an order to repair within the time specified those elements of the structure that are deteriorating, contributing to deterioration, or deteriorated. The Planning Department staff will forward the petition and staff report to the Historic Preservation Commission at its next regularly scheduled meeting after the hearing. The owner and/or other parties in interest shall have ten (10) business days from the date of the written order within which to file with the Historic Preservation Commission a written petition for a claim of undue economic hardship. In the event that the owner and/or other parties in interest wish to petition for a claim of undue economic hardship, the Director's order shall be stayed until after the Historic Preservation Commission's determination in accordance with the procedures of §12-8.5(F), except as provided in §12-8.5(H).

(C) Stay of Proceedings

Any improvements to the property, approved plans for improvements, or other arrangements to bring the property into compliance agreed upon by the property owner and the Planning Director or Historic District Commission will stay all proceedings under this section.

(D) Exemptions

Properties with approved Certificates of Appropriateness for work or demolition will not be subject to enforcement action under this section. Properties with approved Certificates for repairs shall begin work within six (6) months of approval to qualify as exempt.

Properties actively listed and marketed by a licensed real estate agent will have enforcement waived for a period not to exceed six months. However, both the property owner and the licensed real estate agent will be notified in writing that the property has received verified complaints under this section. It is the responsibility of the property owner to advise any potential purchaser of the property regarding any pending action under this ordinance.

(E) Methods of Service

Complaints or orders issued by the Planning Department staff shall be served upon persons either personally or by registered or certified mail; but if the whereabouts of such persons are unknown and the same cannot be ascertained by Planning Department staff in the exercise of reasonable diligence, and Planning Department staff shall make an affidavit to that effect, stating the steps taken to determine and locate the persons in interest, then the serving of such complaint or order may be made by publishing the same once each week for two (2) successive weeks in a newspaper generally circulated within the City. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(F) Safeguards from Undue Economic Hardship

Undue economic hardship is defined as the property owner's financial inability to make the repairs specified in § 12-8.5(B)(b). A claim of undue economic hardship must be made, in writing, by filing a request for such a determination with the Planning Department within the time period specified for in § 12-8.5(B)(b). The determination of undue economic hardship will be made by the Historic Preservation Commission on a case by case basis.

- a) When a claim of undue economic hardship is made owing to the effects of this article, Planning Department staff shall notify the Commission within five (5) business days following the Planning Department's receipt of the written request for a determination of undue hardship. The Commission shall at its next regular meeting, schedule a hearing on the request within the limitations of its procedures for application deadlines.
- b) The petitioner shall present the information provided under subsection (c) below to the Commission fourteen (14) business days prior to the hearing. The Commission may require that an owner and/or parties in interest furnish such additional information as the Commission may reasonably conclude is relevant to its determination of undue economic hardship, and may, in its sole discretion, hold the hearing open or close the hearing and allow the owner or party in interest a reasonable period of time (to be established by the Commission) to furnish the requested additional information. The Commission may direct its staff to furnish additional information, as the Commission believes is relevant. The Commission shall also state which form of financial proof it deems relevant and necessary to a particular case. In the event that any of the required information is not reasonably available to the owner and/or parties in interest and cannot be obtained by the owner, the owner shall describe the reasons why such information cannot be obtained.
- c) When a claim of undue economic hardship is made owing to the effects of this article, the owner and/or parties in interest must provide evidence during the hearing upon the claim, describing the circumstances of hardship. The minimum evidence shall include for all property :
 1. Nature of ownership (individual, business, or nonprofit) or legal possession, custody, and control.
 2. Financial data that establishes the owner's or parties in interest to pay for repair.
 3. Estimated cost of repairs.
 4. Assessed value of the land and improvements.
 5. Real estate tax payments for the previous two (2) years.

6. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance.
7. Annual debt service for the subject property, if any, for previous two (2) years.
8. Any listing of the property for sale or rent, price asked, and offers received, if any.

For income-producing property:

9. Annual gross income from the property for the previous two (2) years.
 10. Itemized operating and maintenance expenses for the previous two (2) years, including proof that adequate and competent management procedures were followed.
- d) Within sixty (60) days of the Commission's hearing on the claim, the Commission shall cause to be made a finding of undue or no undue economic hardship and shall enter the reasons for such finding into the record. In the event of a finding of no undue economic hardship, the Commission shall report such finding to the Planning Director, and the Director shall cause to be issued an order for such property to be repaired within the time specified.
 - e) In the event of a finding of undue economic hardship, the finding shall be accompanied by a recommended plan to relieve the economic hardship. This plan may include, but is not limited to, property tax relief as may be allowed under North Carolina law, other public, private, or nonprofit grant sources, acquisition by purchase or eminent domain, building code modifications, changes in applicable zoning regulations, or relaxation of the provisions of this article sufficient to mitigate the undue economic hardship. The Commission shall report such finding and plan to both the Planning and Inspections Directors. The Planning Director shall cause to be issued an order for such property to be repaired within the time specified, and according to the provisions of the recommended plan.

(G) Appeals

Findings made by the Planning Director or by the Commission may be appealed to the Board of Adjustment. To perfect such an appeal, a written application must be filed by an aggrieved party with the Board of Adjustment within ten (10) business days following receipt of the order for repair of the property or determination. Appeals shall be in the nature of certiorari (review of a quasi-judicial decision) such that the Board of Adjustment may review the record of the proceedings made before the Planning Director or the Commission (as the case may be) to ensure that all procedures required by this ordinance have been followed, and to ensure that the decision appealed from is supported by competent evidence in the record. However, the Board

of Adjustment may not substitute its judgment for that of the Planning Director or the Historic Preservation Commission unless it concludes that either (i) there has been a procedural error which has resulted in prejudice to the appellant or (ii) there is no competent evidence in the record to support the decision.

(H) Other City Powers

Nothing contained within this article shall diminish the City's power to declare an unsafe building as per §12-8.2(C) or a violation of the minimum housing code.

(I) Enforcement, Penalties and Remedies

- a) Enforcement. Enforcement of this article may be by any one (1) or more of the following methods, and the institution of any action under any of these methods shall not relieve any party from any other civil or criminal proceedings prescribed for violations and prohibitions.
 - 1. Equitable Remedy. The City may apply for any appropriate equitable remedy to enforce the provisions of this article.
 - 2. Order of Abatement. The City may apply for and the court may enter an order of abatement. An order of abatement may direct that improvements or repairs be made, or that any other action be taken that is necessary to bring the property into compliance with this article. Whenever the City has executed the order of abatement, the City shall have a lien, in the nature of a mechanic's and material man's, on the property for the cost of executing the order of abatement.
 - 3. Civil Penalty. No civil penalty shall be levied unless and until the Planning Department shall deliver a written notice by personal service or by registered mail or by certified mail, return receipt requested, to the person responsible for each violation indicating the nature of the violation and ordering corrective action. The notice shall also set forth the time period when corrective measures must be completed. The notice shall state that failure to correct the violation within the specified time period will result in the assessment of civil penalties and other enforcement action. If after the allotted time period has expired and after the hearing of an appeal if any by the Board of Adjustment, corrective action has not been completed, a civil penalty shall be assessed in the amount of one hundred dollars (\$100.00) per day of continuing violation.
- b) Inspection of Premises. In the performance of his duties, the Director of Planning and employees of the Department properly authorized to represent him shall have the right to enter any building or premises for the purposes of investigation and inspection; provided that such right of entry shall be exercised only at reasonable hours, and that in no case shall entry be made to any building in the absence of the owner or

tenant thereof without the written order of a court of competent jurisdiction.

12-8.6 New and Replacement Construction in Historic Districts

No person shall construct or cause to be constructed any new or replacement structure or add to any existing structure in a Historic District unless it is found that such construction is compatible in scale and design with the District as set for in Article IX which describes the Districts. Applications for a building or site permit to construct or add to a structure in any Historic District shall be reviewed pursuant to the procedures set forth in §12-8.3 if they meet the standards set forth herein, if a building or site permit application for construction of a building is approved pursuant to this Section and if the building is constructed in accordance with such approval, the building shall be deemed a compatible replacement building and a Certificate of Appropriateness issued.

(§§12-8.5 and 8.6 adopted by Council on 06/09/2008)

12-9 NEIGHBORHOOD CONSERVATION DISTRICT OVERLAY REQUIREMENTS

The Neighborhood Conservation District Overlay District, as described in Section 9-1.7 (F), is established to preserve and enhance the general quality and appearance of older neighborhoods.

12-9.1 Area and Bulk Requirements

(A) Designation of a Neighborhood Conservation Overlay District:

The Planning Department is instructed not to accept a rezoning petition to apply the Neighborhood Conservation Overlay District to any properties unless the following criteria are met:

- (1) The property included in the petition is located in an area in which development began at least forty years prior to the application of the Neighborhood Conservation Overlay District.
- (2) At least sixty per cent of the land within the area is developed.
- (3) The area contains at least three contiguous acres or is an extension of an existing Neighborhood Conservation Overlay District. The Petition must include entire established neighborhoods/subdivisions.
- (4) The area possesses unifying distinctive elements of either exterior features or built environmental characteristics that create an identifiable setting, character and association.
- (5) Is signed by a majority of the property owners within the area sought to be rezoned Neighborhood Conservation Overlay District. However, the City Council may instruct the Planning Department to submit an in-house petition to apply the Neighborhood Conservation Overlay District to any neighborhood that meets the conditions identified in subsections (1) through (4) above.

(B) Lot Size

- (1) There is no minimum lot size required for a single-family dwelling unit. The lot size will be determined by calculating the mean of all of the lots on the same side of the street as the subject property.
- (2) The minimum lot size for duplexes and multi-family dwellings shall be determined by the underlying district.
- (3) The minimum lot size required for a permitted non-residential use shall be determined by the underlying district.
- (4) The minimum lot width required for a single-family dwelling shall be determined by calculating the mean of all of the lot widths on the same side of the street as the subject property. The minimum lot width required for all other uses shall be determined by the underlying district.

(C) Yard Requirements

- (1) The minimum street right-of-way setback requirement shall be determined by calculating the mean of all the established street setbacks of all the properties located on the same side of the street as the subject property.
- (2) The minimum side yard setback requirement, including corner yards shall be determined by calculating the mean of all the established side yard setbacks of all the properties located on the same side of the street as the subject property. However, the corner yard setback requirement shall be at least ten feet, measured from the lot line.
- (3) The minimum rear yard setback requirement shall be determined by calculating the mean of all the established rear yard setbacks of all the properties located on the same side of the street as the subject property.

(D) Building Height

The building height shall be established by calculating the mean of the height of all buildings located on the same side of the street as the subject property. Church spires, flagpoles, antennas, chimneys, and similar accessory structures are exempt from this regulation.

(E) Survey Required

The petitioner shall submit a survey to the Planning Department that identifies the setbacks and height of structures on the same side of the street of the subject property.

12.10 Halstead Boulevard Extension Overlay District Regulations

12.10.1 General

The Halstead Boulevard Extension Overlay District is hereby established to provide a set of comprehensive land use regulations for the Halstead Boulevard Extension corridor. The overlay district allows industrial, commercial, and residential opportunities in a compatible relationship while maintaining an integrated and pleasing visual travel corridor. All permitted uses in this overlay district shall be subject to the procedures, standards and guidelines specified in the following sections, in addition to other applicable rules, regulations and permit requirements. In cases of conflicts with the regulations in the underlying zoning district, the more restrictive requirements shall apply.

The provisions shall apply to all areas designated as the HBEOD and defined on the official zoning map of the City of Elizabeth City. The provisions of this section shall also include areas within the city's extra territorial jurisdiction as shown on the official zoning map of the city.

12-10.2 Standards

- (A) The use and development of any land or structure within the HBEOD shall comply at a minimum with the use regulations and intensity regulations applicable to the underlying zoning district
- (B) All commercial and industrial zoned properties and multi-family developments shall be developed according to the following design and development standards:

1. Building and Facade Design

- a. Facades shall be designed to reduce the massive scale and the one-dimensional appearance of large retail buildings and to provide visual interest.
- b. Facades greater than 50 feet in length measured horizontally, visible from a street or public area, shall incorporate wall plane projections or recesses having a depth of at least 3 feet (for each 50 feet in façade length) to break up the expansiveness of the exterior. All recesses shall be well lit to encourage a safe environment.
- c. Any side of a building oriented toward a public area or street shall incorporate arcades, display windows, entry areas, awnings, false windows, or other features to add visual interest.
- d. Facades that are not visible from a public area or street shall incorporate a repeating pattern that includes color change, texture change and material change, each of which shall be integral parts of the building – not superficially applied trim, graphics, or paint. At least one of these elements shall repeat horizontally. The facade shall incorporate a coordinating color to complement the front and side facades.

- e. The structural or architectural bay pattern of the building shall be expressed on the exterior using reveals, projecting ribs, or offsets to a minimum depth of at least 12 inches.
- f. Building entrances shall include weather protection features such as awnings or arcades having a width at least double that of the doorway over which they are located.
- g. Building materials shall include brick, wood, fiber-cement siding, stone, textured split face block, tinted, and textured concrete masonry or synthetic stucco. Additional building materials may be presented for consideration subject to Planning Commission approval. Metal style buildings are prohibited.

2. Landscaping and Buffering

- a. Any loading operations within view of residential, office, or multi-family developments or public areas and streets shall be opaquely screened with a landscaped berm or a landscaped solid wall at least six feet (6') high. The berm shall be a minimum of four foot (4') high with a maximum side slope of 3:1 and a minimum 3' wide crown. The landscaping shall consist of a mixture of small and large shrubs and trees and at least 50% of the landscaping shall be evergreen.
- b. Parking areas shall be enhanced with 20% additional landscaping over the requirements in Section 11-3. Creative site design is to include preservation of existing stands of trees. Clustered landscaped areas, are encouraged over symmetrical rows of small landscaped islands.
- c. Sites with existing trees and vegetation along the street frontage shall retain those landscape features and integrate them into the landscape plan. Existing natural features shall be shown on the site plan.
- d. To the greatest extent possible, 25% of the landscaping shall be evergreen species.
- e. Landscape islands shall be designed so that plant material is not located on the first two (2) feet of the edge of the island, where it is most likely to be trampled by individuals exiting and entering parked vehicles. Such edge shall be mulched or paved with porous paving material.
- f. Landscaping shall be provided for islands within parking areas and islands separating out parcels and main parking areas.
- g. A landscaping plan for shopping center complexes shall be developed by the applicant/developer and submitted for review and approval with the site plan.
- h. The 25-foot landscape buffer along Halstead Boulevard shall be improved with one tree per each 500 square feet of buffer area and one shrub per each 50 square feet of buffer area. At least 50% of the plant materials

shall be native plants. The trees shall be a mixture of canopy and understory trees. Within the buffer area the plant materials shall be staggered and not in symmetrical rows.

- i. Shrubs shall be at least 18 inches tall/three gallons in size large shrubs shall be at least 24 inches tall/five gallon in size, canopy trees must be at least two inches (2") in caliper (measured 6 inches above the grade) and a minimum of eight feet (8') in height at planting. Understory trees shall have a minimum of height of four feet (4') and one inch in caliper (measured 6 inches above the grade) when planted.
- j. Each subdivision shall provide for street trees between the street right-of-way and the sidewalk. Trees shall be spaced a maximum of 50 feet on center.

3. Parking and Circulation

- a. Vehicular parking areas shall be distributed around at least three (3) sides of retail buildings in order to reduce the overall scale of the paved parking surface. The Technical Review may reduce this requirement to two (2) sides during site plan review.
- b. The vehicular circulation system, which provides access to the parking area, shall be designed to reduce the number of vehicular conflicts to a minimum. Adequate stacking for vehicles of at least 100 feet in length should be provided at the access points from the parking area for retail developments.
- c. Parking spaces shall be at least 9' by 19'.
- d. Internal streets and ways shall be constructed to meet or exceed construction standards for state and city maintained streets or roads.

4. Pedestrian Access

- a. Out parcels shall be connected to each other and to the main shopping center by pedestrian walkways and/or bikeway access.
- b. Continuous internal pedestrian walkways, no less than five feet in width, shall be provided to the principal customer entrance of all principal buildings on the site.
- c. Walkways shall connect focal points of pedestrian activity such as, transit stops, street crossings, building and store entry points, and parking areas.
- d. Walkways shall feature adjoining landscape areas that include trees, shrubs, flower beds, ground covers, or such other materials to enhance the appearance of the walkway areas and shall have adequate lighting.
- e. Building entrances shall include weather protection features such as awnings or arcades having a width at least double that of the doorway over which they are located.

5. Ground Signs

- a. No advertising signs (billboards) shall be located within the overlay district.
- b. Style, size, color, and building material of all signs on the site shall be coordinated, including signs for any out parcel development, on-site directional signs, and signs to be located on the face of any structure.
- c. Colors for sign bases (foundations, supports, and/or frames) shall be primarily neutral or earth tone (no primary colors). A limited amount of brighter accents (primary colors), such as those found in corporate logos, are acceptable in sign messages but not in sign bases.
- d. Sign materials shall be durable, attractive, and coordinated with materials used on the primary structure(s). Sign bases shall be constructed of masonry or similar materials.
- e. Freestanding, monument, ground signs, or entry markers, where permitted, should not be closer than 100 feet to any other previously permitted detached, freestanding or monument sign located on the same side of the street.
- f. Freestanding, monument or ground signs, with the exception of entry markers, are prohibited along Halstead Boulevard. These signs shall be located along the interior street fronting the site. Corner lots are permitted only one freestanding, monument or ground sign and it can be located on either interior street fronting the lot.
- g. Freestanding signs associated with a commercial lot shall be a solid based monument style with a maximum height of eight feet (8') above the adjacent road grade and a maximum length of twelve feet (12') (including supports) and have a message area of not more than 32 square feet. The overall size of the sign, including architectural elements and supports, shall not exceed 72 square feet. A minimum of 80 square feet of landscaping, consisting of at least 25% evergreens, shall be included at the base of the sign. Free formed landscaped areas are encouraged.
- h. Signs of individual businesses attached to their respective building front shall be limited to 1.5 square feet of sign area for each linear foot of store frontage.
- i. Free standing, solid based monument style signs at the main entranceway(s) to a shopping center shall have a maximum height of eight feet (8') above the adjacent road grade and a maximum length of 12 feet (including supports) and have a message area of not more than 50 square feet. A minimum of 120 square feet of landscaping, consisting of at least 25% evergreens, shall be included at the base of the sign. Free formed landscaped areas are encouraged.

- j. Free standing solid based monument style signs at auxiliary entranceway(s) to a shopping center shall have a maximum height of 7 feet and a maximum length of 12 feet above the elevation of the state or city maintained street or road closest to it and have a message area of not more than 24 square feet. A minimum of 100 square feet of landscaping, consisting of at least 25% evergreens, shall be included at the base of the sign. Free formed landscaped areas are encouraged.
- k. All electrical or mechanical devices associated with freestanding signs shall be designed to be housed inside the base of the sign.

6. Entry Markers

- a. The Planning Commission may permit entry markers for commercial subdivisions or developments of more than 10 acres or developments with at least four businesses with at least 150,000 square feet of floor area at an entrance to the development subject to approval. In addition, entry markers may be used at the entrance to residential developments. Entry markers are subject to the following guidelines:
 - 1) Only one entry marker shall be permitted at each northern and southern limited access point on Halstead Boulevard Extended.
 - 2) The minimum setback from any public street right-of-way line or any property line shall be equal to or greater than five feet.
 - 1) The entry marker shall be placed so as not to encroach upon utility lines or traffic control devices whether such lines or devices be located overhead or underground; and where a conflict is indeed encountered, the developer or designated property owner shall be responsible for the removal or relocation of the said features or a part thereof.
 - 2) The entry marker shall be placed so as not to cause a visual obstruction and thereby create a traffic hazard, and any entry marker illumination shall be placed to be unobtrusive to moving traffic lanes or adjacent properties.
 - 3) Entry markers located at intersections with Halstead Boulevard Extension shall not exceed a maximum height of ten feet (10') above the adjacent road grade with a maximum message area of 100 square feet per face, including any logos, trademarks, or symbols incorporated into the entry marker. The maximum length of the ten foot high section shall be 15 feet (15'). Entry markers located off Halstead Boulevard Extension shall not exceed a maximum height of six feet (6') and a maximum message area of 32 square feet per face, including any logos, trademarks, or symbols incorporated into the entry marker. If the maximum height is exceeded due to architectural features, the signage shall be reviewed on a case-by-case basis.
 - (a) The content of an entry marker shall be limited to the name of the subdivision, development, office, industrial or business park. Such entry markers may include an area of

up to 60% of the message area that contains logos, trademarks, or symbols for a maximum of ten(10) individual properties, tenants, or information relating to a permanent leasing office. No one property or tenant logo shall be larger than 30% of the allowable message area. Such supplemental information shall be clearly subordinate to the name of the development or subdivision, and shall be incorporated into the design consistent with the guidelines and standards for signage in these guidelines.

- (b) Logos or signage for individual businesses shall be deducted from the maximum allowable wall signage for that company or site.
- 4) The wall to which the message area is attached shall not be counted as sign area
- 5) Entry markers shall be located in a free formed planted landscaped area, extending a minimum of five feet (5') from all sides of the entry marker base, which is of a shape, design, and size that will provide a compatible setting and ground definition to the entry marker. The planted landscaped area shall be a minimum of 100 square feet and shall be maintained in a neat and healthy condition.

The landscaped area may include trees, shrubs, ground covers, flowering annuals and perennials, fountains, water features, rock work, planters, sculpture, and decorative paving, all of which are to be complimentary to the entry marker. Turf grass is not considered landscaping for purposes of this subsection.

- 6) Entry markers should not be closer than 100 feet to any other previously permitted detached, freestanding or monument sign located on the same side of the street.
- 7) All entry markers shall be compatible with the architectural style or theme of the development or subdivision through the use of matching forms, colors, and materials. Characteristic architectural details and patterns should be carried through into the design of the entry marker.
- 8) All entry markers are to be constructed of materials such as stone, brick, stucco, wood, cast concrete, tile, or similar materials. Bare wood, metal, or other non-durable materials shall be reviewed on a case-by-case basis.
- 9) Entry markers may be located in the public or private street right-of-way with the approval of the Planning Commission.
 - (a) The entry marker may be placed in the public right-of-way provided:
 - (i) Prior approval is granted by the Public Works Director or The NCDOT District Engineer; and

- (ii) A bond is submitted in an amount to cover the removal of said features if deemed necessary at a later date by the Public Works Department. The bond shall have an initial ten-year life and shall be renewed for five-year periods thereafter; and
 - (iii) An executed covenant, stating that all structures shall be maintained in good condition and repair and that all landscaping shall likewise be so maintained, shall be delivered for review and, upon approval, shall be duly recorded prior to the issuance of any permits.
- 10) Entry markers shall be either backlit or illuminated by means of a recessed light fixtures at the sign base. Backlit sign letters fixed directly to the sign face are encouraged over cabinet signs or other types of sign lettering.
 - 1) Flashing or message boards shall not be permitted.
- 11) The owners, Property Owners Association or similar entity, shall have the perpetual responsibility of properly maintaining the entry markers and landscaping that are placed on private property or within the street right-of-way. To assure the proper maintenance of the entry markers:
 - 1) An executed covenant, stating that all structures shall be maintained in good condition and repair and that all landscaping shall likewise be so maintained, shall be submitted for review and, upon approval, shall be duly recorded prior to the issuance of any permits or final approvals.
 - 2) Any live landscape material such as shrubs and trees, which may die, shall be replaced within 90 days.
- 12) For subdivisions, a copy of the bylaws or other documentation of the association that will have permanent responsibility for maintenance of the entry marker and the required landscaping shall be submitted for review and approval.
- 13) The site plans or preliminary plats for the development shall show the location of the entry markers noting the required landscape areas and setbacks. The plans shall note that the entry markers will require a separate sign permit.
- 14) Signage plans and details for entry markers shall be submitted at the time of application for approval of sign permit. The plans and details are subject to the approval of the Planning Commission and shall include:
 - 1) A site plan showing the detailed location of all entry marker elements and setbacks

- 2) Elevations of all sides of the entry marker along with any associated landscaping or sculptural elements (i.e., fountains, water features, planters, rockwork, etc.)
 - 3) All materials, colors and dimensions noted
 - 4) All type (copy) shall be accurately represented.
 - 5) Lighting details
 - 6) Detailed landscape plan for the entry marker locations
- 15) Review and approval by the Planning Commission is required of all entry marker signage.

(Section 6 added by City Council 03/10/08)

7. Portal Monument

- a. Definition: A portal monument shall be defined as a cohesively designed element(s) to a subdivision or development, intended to create a unique, identifying entrance area with the expressed purpose of identifying or drawing attention to the development and/or exercising control of ingress and egress to the development. There shall be only one portal monument per subdivision or development. The portal monument shall be located within a common open space area or landscape easement, adjacent to a street on the perimeter of the subdivision, span no more than twenty-five (25) linear feet, identify a single development or subdivision of a minimum of one hundred fifty (150) acres and be composed of, but not limited to, at least two of the following components: ornamental walls, fences, identifying lettering, works of art and other decorative structures, earthworks, water bodies, fountains, landscape elements, pedestrian gates, signs and associated decorative items such as lights and finials.
- b. Minimum Setback and Placement. Portal monuments shall be placed so as not to encroach upon utility lines or traffic control devices whether such lines or devices be located overhead or underground; and where a conflict is indeed encountered, the developer or designated property owner shall be responsible for the removal or relocation of the said features or a part thereof portal monuments shall be placed so as not to cause a visual obstruction and thereby create a traffic hazard, and should the use of illumination be incorporated in said features, such illumination shall be placed so as to be unobtrusive to moving traffic lanes or adjacent properties. The portal monument shall be set back a minimum of fifteen (15) feet from the street right-of-way. On a corner lot no structure, planting, sign or object of natural growth that obstructs visibility shall be placed, or permitted to remain, within the sight triangle. A structure, planting, sign or object of natural growth exceeding a height of thirty (30) inches, excluding trees taller than a height of six feet (6'), shall be deemed as obstructing visibility. This measurement shall be made from the top-of-curb.
- c. Maximum Permitted Height. The maximum permitted height of a portal monument is thirty (30) feet above the natural grade, at a setback of fifteen (15) feet from the right-of-way. A portal monument height up to

thirty-five (35) feet is permitted, provided that the setback increases two feet for every one foot of monument height over thirty (30) feet. An adjoining fence or wall height of up to six feet is permitted. Fence or wall columns may exceed the actual fence or wall height by a maximum of one foot, provided there is a minimum distance between columns of six feet. Lights, finials, and other decorative appurtenances may extend up to three feet above the top of the portal monument. In no case shall the combined height of the portal monument, column and decorative appurtenances or architectural features exceed thirty-five (35) feet. If the maximum height is exceeded due to architectural features, the signage shall be evaluated on a case-by-case basis.

- d. Landscaping. A minimum of five-foot wide free formed landscape area shall be provided extending from all sides of the base of the portal monument.
- e. Required Materials. The character and scale of entrance features shall be of a design such that said features are complementary to the identified development or subdivision and compatible with the immediate neighborhood insofar as its overall impact is concerned. The portal monument shall be substantially opaque constructed of materials such as stone, brick, stucco, wood, cast concrete, tile or similar material. Bare wood, metal, or other non-durable materials shall be reviewed on a case-by-case basis. Walls or fences intended for limiting property access and/or security shall also be opaque and serve as visual barrier. Other elements such as wrought iron may be used in the fence composition. All structures within entrance features shall meet all standards of the North Carolina Building Code and any other applicable standards.
- f. Maintenance. The owners, Property Owners Association or similar entity, shall have the perpetual responsibility of properly maintaining the portal monument and landscaping that are placed on private property or within the street right-of-way. To assure the proper maintenance of the portal monument:
 - 1) An executed covenant, stating that all structures shall be maintained in good condition and repair and that all landscaping shall likewise be so maintained, shall be submitted for review and, upon approval, shall be duly recorded prior to the issuance of any permits or final approvals.
 - 2) Any live landscape material such as shrubs and trees, which may die, shall be replaced within 90 days.
 - 3) For subdivisions, a copy of the bylaws or other documentation of the association which will have permanent responsibility for maintenance of the portal monument and the required landscaping shall be submitted for review and approval
- g. Application. The site plans or preliminary plats for the development shall show the location of the portal monument noting the required landscape areas and setbacks. The plans shall note that the portal monument will require a separate sign permit.

Signage plans and details for portal monuments shall be submitted at the time of application for approval of a sign permit. The plans and details are subject to the approval of the Planning Commission and shall include

- 1) A site plan showing the detailed location of all portal monuments elements and setbacks
- 2) Elevations of all sides of the portal monument along with any associated landscaping or sculptural elements (i.e., fountains, water features, planters, rockwork, etc.)
- 3) All materials, colors and dimensions noted
- 4) All type (copy) shall be accurately represented.
- 5) Lighting details
- 6) Detailed landscape plan for the portal monument location

(Section 6 added by City Council 03/10/08)

8. Outdoor Display Areas, Machines and Ground Level Mechanical Equipment

- a. All outdoor display areas, including garden centers and any seasonal sales, shall be enclosed on all sides with high-quality fencing such as fencing resembling wrought iron, (chain link fencing is prohibited).
- b. All outdoor display areas shall be designated on the site plan and must not extend into parking areas.
- c. Vending machines shall not be visible from public pedestrian areas outside the business structure, including garden areas.
- d. Mechanical or HVAC equipment shall not be installed at ground level along any portion of a building facing a state or city maintained street, road, internal street, or way unless such location is necessitated by the nature and design of the building it serves. Roof top installation may be allowed provided that such equipment is concealed behind a parapet wall.
- e. A solid fence or wall and native plants shall screen any ground level equipment. Block or brick enclosures, if used, may include decorative openings within the block or brick pattern.

- (C) All residentially zoned property shall be developed in accordance with the standards set forth in the applicable zoning districts in addition to the following.

1. Buffer Areas

- a. In residential districts, a buffer strip at least fifty feet in depth, in addition to normal lot depth, shall be provided adjacent to all railroads and Halstead Boulevard Extension. This strip shall be a part of the platted lots and shall have the following notation lettered on the face of the plat: 'This strip is reserved for the planting of trees or shrubs by the owner; the building of structures hereon is prohibited.'

2. Streetscapes

- a. Residential developments shall be designed to encourage pedestrian traffic. Street design and elements such as sidewalks, bikeways, and walking trails should be incorporated for visual appeal.
- b. Residential developments and subdivisions with 40 lots or more shall have entry statements that create a distinctive image of a particular residential development. Any entry statement or feature shall be designed to assist passing motorists to easily identify the development, and shall complement the overall appearance of the greater community of which it is a part. Water features and or other architecturally designed features shall be incorporated as part of an entry statement feature.
- c. Each development shall provide for street trees between the street right-of-way and the sidewalk. Each single-family lot shall have at least one street tree. Multi-family developments shall have trees spaced a minimum of 50 feet apart.
- d. Parks, opens space or community gathering areas shall be provided in all residential districts. These areas should be located adjacent to residential streets or in areas that have community wide use. Open areas encircled by residential lots are discouraged.

(D) Storm Water Management

- a. Stormwater management facility ponds shall be attractively landscaped with amenities. All ponds shall be aerated with a fountain or waterfall type feature. Wetlands benching, fountains, and the incorporation of walking trails and pedestrian benches around the perimeter of the ponds are all encouraged. Lighting of these areas is required for safety.
- b. Should a storm water management pond be enclosed, chain link fencing is prohibited.
- c. To the greatest degree possible, stormwater management shall utilize existing regional stormwater management facilities.

(E). Streets

- a. Subdivisions, commercial and multi-family developments shall be designed to connect with a street network in any adjacent development or neighborhood creating an interconnected street network.

(F) Setbacks

- a. Building setbacks along Halstead shall be 50 feet from the edge of the right-of-way of Halstead Boulevard Extension.
- b. Building setbacks along Thunder Road within the overlay boundary shall be 50 feet from the edge of the right-of-way of Thunder Road.

- c. Building setbacks along Forest Park Road within the overlay district shall be 25 feet from the edge of the right-of-way from Forest Park Road
- d. Building setbacks along Wellfield Road within the overlay boundary shall be 50 feet from the edge of the right-of-way from Wellfield Road.

(G) Outdoor lighting and Utilities

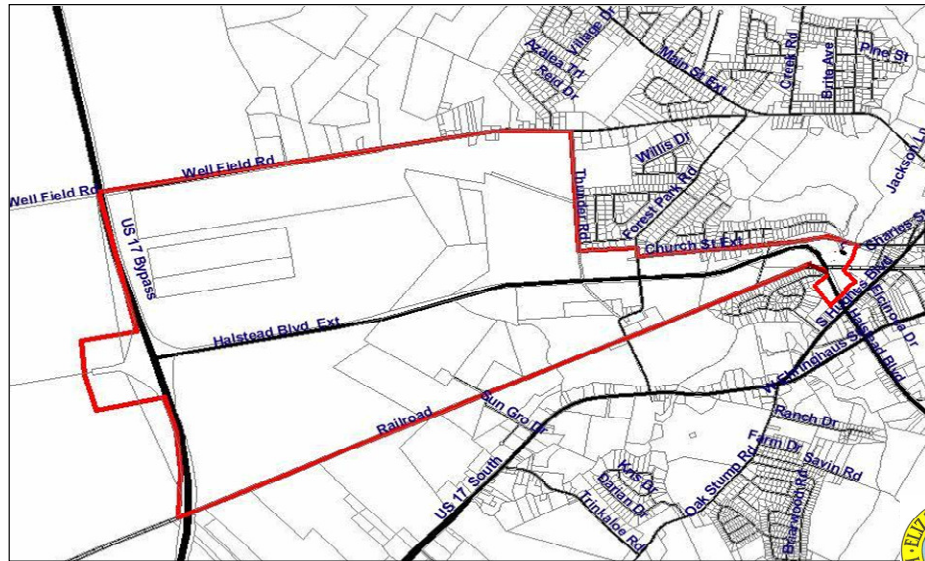
- a. All outdoor lighting shall be shielded in such a manner that no direct glare from the light source can be seen from Halstead Boulevard. All lighting shall be in accord with the North Carolina Department of Transportation Standards as per AASHTO publication "Roadway Lighting Design Guide, 2005."
- b. All commercial and multi-family parking lots shall be adequately lit
- c. All utility lighting poles shall be black in color.
- d. All utility lighting poles shall be decorative in material and subject to the approval of the City of Elizabeth City Public Utilities Director to ensure consistency of design and construction.
- e. All utility supplies shall be underground

(H) All properties within the Halstead Boulevard Extension Overlay District shall access Halstead Boulevard at a "designated access" as illustrated on the official overlay-zoning map. Those properties that do not have direct access to Halstead Boulevard shall be granted access through those properties that do have a "designated access."

(I) All properties abutting Halstead Boulevard shall pay a development fee equal to the costs to install a four (4) foot wide concrete sidewalk. The Director of Public Utilities of the City of Elizabeth City shall determine the costs of such improvements.

(J) Any person aggrieved may take appeals from the requirements of the Halstead Boulevard Overlay District to the Planning Commission. The Planning Commission shall follow the requirements of the appeals and variances in Article 7 of the Elizabeth City Unified Development Ordinance.

Halstead Boulevard Extension Corridor



(Amended 4-24-06 and 3-10-08)